

STATEMENT OF SCOPE

Public Service Commission of Wisconsin (Docket 1-AC-249)

Rule No.: Section PSC 160.115 (Medical telecommunications equipment grant program)

Relating to: Changes to s. PSC 160.115 to Address Procedural Modifications
Suggested by the Legislative Audit Bureau

1. Description of the objective of the rule and expected financial impact:

This rulemaking will amend the administrative rule on the Medical Telecommunications Equipment grant program to clarify ambiguous language and bring the rule into conformance with the State Accounting Manual, subsection IV.7, concerning carryover of encumbrances. This rulemaking is limited to the revision of administrative procedures and is not expected to have any financial impact on any recipient of a Telemedicine grant award.

2. Description of existing policies relevant to the rule and new policies proposed to be included in the rule and analysis of policy alternatives; the history, background and justification for the proposed rule:

The Medical Telecommunications Equipment (Telemedicine) program was created in October 1999 by s. 196.218(4u), Stats., to provide grants to qualified nonprofit medical clinics and public health agencies for the purchase of telecommunications customer premises equipment with a specific medical application. The administrative rule implementing the Telemedicine grant program, s. PSC 160.115, was adopted in April 2000. The commission has awarded grants in each fiscal year beginning with Fiscal Year 2001.

Section PSC 160.115(3) provides:

(3) A maximum of \$500,000 in universal service fund support may be dispersed under this section per state fiscal year.

The commission has consistently interpreted this section to mean that it could encumber up to \$500,000 each fiscal year. The commission accomplished this each year by creating purchase orders for each grantee awarded a grant under this program. From the first year of the program, the commission has chosen to pay out each grant award as reimbursement for completed equipment purchases based upon paid invoices and other proof of purchase. The commission has permitted and even encouraged grantees to take time to consider alternative product and vendor options prior to purchase. This approach in turn requires that many of the encumbrances created in one fiscal year will carry over into the next year.

Beginning with Fiscal Year 2008, the commission decided to combine the award of two fiscal years into a single proceeding, awarding \$1,000,000 for FY 2008/2009, instead of awarding \$500,000 each year for FY 2008 and FY 2009 in two separate proceedings. To accomplish this, the commission postponed the approval of the grant awards in the combined proceeding until June 2008. The PSC staff accountant divided the \$1,000,000 in approved grants between the two fiscal years. In all cases the funds became available on July 1 and the grantees were unaware whether the grant award came from FY 2008 or FY 2009 funds. The commission found combining the awards for two years into a single proceeding to be a more efficient use of commission resources and has continued to use this format in combined proceedings for FY 2010/2011, FY 2012/13 and FY 2014/2015.

In 2015, the Legislative Audit Bureau commented that the administrative rule, s. PSC 160.115 (3), should be read to require that the issuance of the grant award, related equipment purchases and the disbursement of funds be completed in the same fiscal year in which the funds were authorized and made available by the commission in its Universal Service Fund budget decision. The auditor pointed out that the schedule the commission is presently using often delays the disbursement of funds approved for each year of the biennium until the second year of the biennium.

The Audit Bureau also pointed to two requirements from the State Accounting Manual, Subsection IV.7, concerning carryover of encumbrances:

- There must be a written order with a known vendor/party as of June 10 in order for funds to be carried over to the following fiscal year.
- Reimbursement aids can be carried forward only to the extent necessary to reimburse for goods and services provided by the grantee before June 30, or to fulfill terms of a grant or aid contract that has a defined ending date.

The Audit Bureau commented that, in many instances, the Telemedicine grant award and acceptance letters that comprise the grant were not completed by June 10, and the grant did not establish a defined ending date. The Audit Bureau recommended that the commission review its procedures for the Telemedicine grant program to ensure the program is in compliance with the State Accounting Manual.

The commission has decided to undertake the review recommended by the Audit Bureau. Commission staff will consult with Department of Administration fiscal staff to bring the schedule for the proceeding and the wording of the grant awards into conformance with the Accounting Manual. Modifications of the schedule for the grant proceedings and the wording of correspondence are within the commission's general administrative discretion under s. 196.02 (1), and do not require a change to any administrative rule.

The commission proposes this rulemaking as a concurrent part of its review of the Telemedicine grant program to consider an amendment to s. PSC 160.115 (3) and related subsections to ensure the administrative rule accurately states the process the commission will use to administer the Telemedicine grant program. The commission envisions adopting a rule that permits the

commission to: (1) encumber the funds for a given grant award prior to the end of the fiscal year in which the funds were authorized; (2) pay out a grant award to a grantee after equipment purchases have been made and proof of purchase has been submitted; and (3) carry over encumbrances to the following fiscal year as necessary and in conformance with state accounting procedures.

3. Statutory authority for the rule (including the statutory citation and language):

This rule is authorized under ss. 196.02(1) and (3), 196.218(4u), and 227.11, Stats.

Section 227.11 authorizes agencies to promulgate administrative rules. Section 196.02(1) authorizes the Commission to do all things necessary and convenient to its jurisdiction. Section 196.02 (3) grants the Commission specific authority to promulgate rules. Section 196.218 (4u) directs the Commission to promulgate rules establishing requirements and procedures for awarding Telemedicine grants.

4. Estimate of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule:

The commission estimates that less than 100 staff hours will be spent developing this rule. No other resources should be necessary.

5. Description of all entities that may be impacted by the rule:

The entities that would be affected by this rulemaking are the medical clinics and public health agencies that will be awarded grants from the Medical Telecommunications Equipment grant program in the future. If this rule amendment is adopted, future awardees will be required to commit to a defined ending date for the grant in a grant contract as a condition to receiving the grant funds. If the awardee fails to complete its equipment purchases prior to the expiration of the grant award, the unused funds will be returned to the Universal Service Fund reserve.

6. Summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule:

None.

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